

REMARKS

Claims 1-14, 18-24, 35-38, and 46-54 are now pending in the application. Claims 1, 9, 18, and 21 are amended. Claims 48 through 54 are added.

Claims 39-45 are cancelled hereby without prejudice to the subject matter contained therein. In his June 6, 2005 response, Applicant cancelled claims 15-17 and 25-34 without prejudice to the subject matter contained therein. Applicant reserves the right to refile all cancelled claims and contest the rejections thereof in one or more subsequent applications.

The Examiner is respectfully requested to reconsider and withdraw the objections and rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-2 and 5-8

Claims 1-2 and 5-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964). This rejection is respectfully traversed.

At the outset, Applicant notes that the amendment of claim 1 has rendered moot the rejection of independent claim 1 (and claims 2 and 5-8 depending therefrom). In addition, independent claim 1 has been amended to clarify that the hot/cold gel is "hermetically sealed within the container." Patz in view of Parker does not disclose, teach or suggest a therapeutic device having a container with a hot/cold gel hermetically sealed in that container, where that same container also has a pocket in which is removably positioned a member having at least one light source.

Instead, Patz discloses an injury pack holder 10 in which pockets are formed with retention mesh 60 sewn into openings 55a, 55b, and 55c of the injury pack holder 10. Patz also discloses that traditional cooling packs can be housed within the mesh pockets. But Applicant has not found any disclosure, teaching or even remote suggestion in Patz to have the cooling pack include a

pocket. Indeed, it is quite the opposite because the Patz pockets are formed with components entirely separate from the cooling pack.

See, for example, Patz Figures 1 and 2, and column 5, lines 52-63:

A retention mesh 60 is affixed to the inner shell 22 from the first end 15 to the second end 16 such that the retention mesh 60 creates a pocket in module openings 55a, 55b and 55c when objects are inserted into module openings 55a, 55b and 55c from the inside of the injury pack holder 10. Module openings 55a, 55b, and 55c can house a variety of objects such as traditional cooling packs (prior art) or in one embodiment a thermoelectric assembly 75, or various combinations of objects. The retention mesh 60 is sewn in two longitudinal seams running from the first end 15 to the second end 16 and at the first end 15 and second end 16 (not shown).

The Office action recites to components 20 (outer shell), 55a (module opening) in Patz Figure 1 (and presumably mesh 60) as the disclosure of a container. But this “container” is at least partially formed by mesh, such that it would not be possible to have a hot/cold gel hermetically sealed within this mesh container.

As just explained, Patz does not disclose, teach, or suggest “a container having a pocket on an outer surface of the container, a hot/cold gel hermetically sealed within the container”, as required by claim 1. The Parker patent also does not fix this shortcoming. Although Parker describes pockets 54 in which can be positioned light emitting layers 2 or 2', Applicant has not found any disclosure, teaching, or suggestion in Parker to have the pockets 54 on an outer surface of a container in which a hot/cold gel is hermetically sealed, as is required by claim 1. See, for example, Parker Figures 7 and 9 showing pockets 54 essentially floating in space and not connected or coupled to any other component. See also for example, Parker column 7, lines 15-21:

Alternatively, the two layers 50, 52, one of which may be a back reflector 53 if desired, may be in the form of a pocket 54 sealed along two sides 55, 56 and one end 57, leaving the other end 58 open as shown in FIG. 7 for insertion of one or more light emitting layers 2 or 2' into the pocket 54 to complete the panel assembly as schematically shown in FIG. 9.

The Office action states that it would have been obvious to one ordinarily skilled in the art at the time of invention to modify the therapeutic device of Patz to incorporate into said pocket the therapeutic light emitting panel of Parker in order to provide phototherapy to an injured area. Assuming *arguendo* this is true and that Patz and Parker are properly combinable, any logical combination still results in subject matter different from that of claim 1. This is because modifying the Patz device by positioning the Parker light emitting layers 2 or 2' within the Patz mesh pockets still fails to present a *prima facie* case of obviousness in the present instance by failing to teach or suggest "a container having a pocket on an outer surface of the container, a hot/cold gel hermetically sealed within the container, and a member removably positioned within the pocket, the member having at least one light source capable of emitting therapeutic light", as required by claim 1. See MPEP § 2143.03 ("To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.").

Because Patz in view of Parker does not disclose, teach or suggest each and every feature recited by claim 1, the combination of Patz and Parker does not render obvious claim 1 (and claims 2 and 5-8 depending therefrom). For at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the obviousness rejections of claims 1, 2, and 5-8.

The cited patents also fail to recognize all of the unobvious advantages, which can be realized by devices of the present invention. For example, various embodiments advantageously provide therapeutic devices that are compact, portable, battery-operated, and relatively inexpensive (and for some persons, disposable), thus making them suitable for home-use (e.g., an item someone can keep in their medicine cabinet, under a bathroom sink, etc.). For these additional reasons, Applicant submits that Patz in view of Parker does not render obvious claim 1.

Claim 2 and 5-8 depend from claim 1, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claims 2 and 5-8 are also allowable for allowance for at least the reasons given above in connection

with independent base claim 1. See MPEP § 2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.").

Claims 3-4

Claims 3-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964) as applied to claim 1 above, and further in view of Schwartz et al. (U.S. Publication 2001/0052153). This rejection is respectfully traversed.

Claim 3 and 4 depend from claim 1, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claims 3 and 4 are also allowable for allowance for at least the reasons given above in connection with claim 1.

Claim 9-10, 14, and 19

Claims 9-10, 14, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964). This rejection is respectfully traversed.

At the outset, Applicant notes that the amendment of independent claim 9 has rendered moot the rejection of claim 9 (and claims 10, 14, and 19 depending therefrom). In addition, independent claim 9 has been amended to clarify that the non-electrical agent is "hermetically sealed within the container for applying at least one hot therapy and cold therapy." Patz in view of Parker does not disclose, teach or suggest a therapeutic device having a container with a non-electrical agent hermetically sealed in that container, where that same container also has a pocket in which is removably positioned a member having at least one light source.

Instead, Patz discloses an injury pack holder 10 in which pockets are formed with retention mesh 60 sewn into openings 55a, 55b, and 55c of the injury pack holder 10. Patz also discloses that traditional cooling packs can be housed within the mesh pockets. But Applicant has not found any disclosure,

teaching or even remote suggestion in Patz to have the cooling pack include a pocket. Indeed, it is quite the opposite because the Patz pockets are formed with components entirely separate from the cooling pack.

See, for example, Patz Figures 1 and 2, and column 5, lines 52-63:

A retention mesh 60 is affixed to the inner shell 22 from the first end 15 to the second end 16 such that the retention mesh 60 creates a pocket in module openings 55a, 55b and 55c when objects are inserted into module openings 55a, 55b and 55c from the inside of the injury pack holder 10. Module openings 55a, 55b, and 55c can house a variety of objects such as traditional cooling packs (prior art) or in one embodiment a thermoelectric assembly 75, or various combinations of objects. The retention mesh 60 is sewn in two longitudinal seams running from the first end 15 to the second end 16 and at the first end 15 and second end 16 (not shown).

The Office action recites to components 20 (outer shell), 55a (module opening) in Patz Figure 1 (and presumably mesh 60) as the disclosure of a container. But this "container" is at least partially formed by mesh, such that it would not be possible to have a non-electrical agent hermetically sealed within this mesh container.

As just explained, Patz does not disclose, teach, or suggest "a container having a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy", as required by claim 9. The Parker patent also does not fix this shortcoming. Although Parker describes pockets 54 in which can be positioned light emitting layers 2 or 2', Applicant has not found any disclosure, teaching, or suggestion in Parker to have the pockets 54 on an outer surface of a container in which a non-electrical agent for applying hot and/or cold therapy is hermetically sealed, as is required by claim 9. See, for example, Parker Figures 7 and 9 showing pockets 54 essentially floating in space and not connected or coupled to any other component. See also for example, Parker column 7, lines 15-21:

Alternatively, the two layers 50, 52, one of which may be a back reflector 53 if desired, may be in the form of a pocket 54 sealed along two sides 55, 56 and one end 57, leaving the other end 58 open as shown in FIG. 7 for insertion of one or more light emitting

layers 2 or 2' into the pocket 54 to complete the panel assembly as schematically shown in FIG. 9.

The Office action states that it would have been obvious to one ordinarily skilled in the art at the time of invention to modify the therapeutic device of Patz to incorporate into said pocket the therapeutic light emitting panel of Parker in order to provide phototherapy to an injured area. Assuming *arguendo* this to be true and that Patz and Parker are properly combinable, any logical combination still results in subject matter different from that of claim 9. This is because modifying the Patz device by positioning the Parker light emitting layers 2 or 2' within the Patz mesh pockets still fails to present a *prima facie* case of obviousness in the present instance by failing to teach or suggest "a container including a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, and a member including at least one light source for emitting therapeutic light, the member being sized to be positioned within the pocket", as required by claim 9. See MPEP § 2143.03 ("To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.").

Because Patz in view of Parker does not disclose, teach or suggest each and every feature recited by claim 9, the combination of Patz and Parker does not render obvious claim 9 (and claims 2 and 5-8 depending therefrom). For at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the obviousness rejections of claims 1, 2, and 5-8.

The cited patents also fail to recognize all of the unobvious advantages, which can be realized by devices of the present invention. For example, various embodiments advantageously provide therapeutic devices that are compact, portable, battery-operated, and relatively inexpensive (and for some persons, disposable), thus making them suitable for home-use (e.g., an item someone can keep in their medicine cabinet, under a bathroom sink, etc.). For these additional reasons, Applicant submits that Patz in view of Parker does not render obvious claim 9.

Claims 10, 14, and 19 depend from claim 9, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claims 10, 14, and 19 are also allowable for allowance for at least the reasons given above in connection with independent base claim 9. See MPEP § 2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.").

Claim 11

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964) as applied to claim 9 above, and further in view of Schwartz et al. (U.S. Publication 2001/0052153). This rejection is respectfully traversed.

Claim 11 depends from independent claim 9, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 11 is also allowable for allowance for at least the reasons given above in connection with independent base claim 9.

Claims 12-13

Claims 12-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964) as applied to claim 9 above, and further in view of Altshuler et al. (U.S. Publication 2004/0093042). This rejection is respectfully traversed.

Claim 12-13 depend from independent claim 9, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claims 12 and 13 are also allowable for allowance for at least the reasons given above in connection with independent base claim 9.

Claim 18

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent

5,568,964) as applied to claim 9 above, and further in view of Prescott (U.S. Patent 5,616,140). This rejection is respectfully traversed.

Claim 18 depends from independent claim 9, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 18 is also allowable for allowance for at least the reasons given above in connection with independent base claim 9.

In addition, Applicant notes that the amendment of claim 18 has rendered moot the rejection of claim 18. Further, claim 18 is patentably distinguishable over the cited patents because the cited patents do not disclose, teach or suggest the additional features required by claim 18. Claim 18 has been amended to clarify that the container includes at least one externally flexible surface portion, and that the member includes a switching device that is positioned internally relative to the container's flexible surface portion when the member is positioned within the pocket such that movement of the container's flexible surface portion switchably connects the light source to a power source.

The Office action states that neither Parker nor Patz discloses the additional features recited in claim 18. The Office action then relies upon the switch 15 shown in Prescott Figure 1 and described in column 5, lines 63-66. Even Prescott discloses a pressure switch 15, Prescott, however, does not disclose, teach, or even remotely suggest the additional features required by claim 18. For example, the Prescott pressure switch 15 is external to the housing 12 such that the switch 15 may be activated by simply pressing the switch 15 with a finger. Indeed, Applicant has not found any teaching or even remote suggestion in Prescott about the switch 15 being positioned internally to a flexible portion of the housing 12 such that movement of the flexible housing portion, for example, by squeezing the housing 12) activates the pressure switch 15. For these additional reasons, Applicant respectfully submits that claim 18 is patentably distinguishable over the cited patents.

Claim 20

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964) as applied to claim 19 above, and further in view of Prescott (U.S. Patent 5,616,140). This rejection is respectfully traversed.

Claim 20 depends from independent claim 9, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 20 is also allowable for allowance for at least the reasons given above in connection with independent base claim 9.

Claims 21 and 24

Claim 21 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al. (U.S. Publication 2004/0039428) in view of Pyrozyk et al. (U.S. Patent 5,431,622). This rejection is respectfully traversed.

At the outset, Applicant notes that the amendment of independent claim 21 has rendered moot the rejection of independent claim 21 (and claim 24 depending therefrom). In addition, independent claim 21 has been amended to clarify that the therapeutic device includes “a relatively thin flexible substrate, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, wherein the at least one light source is surface mounted on the substrate, whereby the substrate and the hot/cold gel pack have sufficient flexibility for allowing the therapeutic device to be bent in conformance with a contoured portion of a user’s body.” Williams in view of Pyrozyk does not disclose, teach or suggest at least these features, and, accordingly, cannot render obvious claim 21 (and claim 24 depending therefrom).

First, Applicant has been unable to find any reference whatsoever to light sources in the Pyrozyk patent. And, the Williams published application discloses a phototherapeutic device in which a pad 2 is placed over a light emitting surface 3 of a light emitter 4 that receives light through a light distributor 5. The light

emitter 4 and light distributor 5 may be formed of a flexible optic light guide, which may either be a solid transparent optical member or comprised of a plurality of optical fibers as desired. Light emitting surface 3 of light emitter 4 is larger than the cross sectional area of light distributor 5 to reduce energy density by spreading the light over a larger surface area at the light emitting surface. The Williams patent goes on to further describe that the light emitter 4 may also comprise a light bed 6 that is lit using light emitting diodes, a halogen light, fluorescents or other suitable light source.

Accordingly, Applicant respectfully submits that any logical combination of Williams in view of Pyrozyk still results in subject matter different from that of claim 21. This is because modifying the Williams device to include the Pyrozyk bandage still fails to present a *prima facie* case of obviousness in the present instance by failing to teach or suggest "a relatively thin flexible substrate, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source", as required by claim 21. See MPEP § 2143.03 ("To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.").

Because Williams in view of Pyrozyk does not disclose, teach or suggest each and every feature recited by claim 21, the combination of Williams and Pyrozyk does not render obvious claim 21 (and claim 24 depending therefrom). For at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the obviousness rejections of claims 21 and 24.

Claim 24 depends from claim 21, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 24 is also allowable for allowance for at least the reasons given above in connection with independent base claim 21. See MPEP § 2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.").

Claims 22-23

Claim 22-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al. (U.S. Publication 2004/0039428) in view of Pyrozyk et al. (U.S. Patent 5,431,622) as applied to claim 21 above, and further in view of Altshuler et al. (U.S. Publication 2004/0093042). This rejection is respectfully traversed.

Claims 22 and 23 depend from claim 21, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claims 22 and 23 are also allowable for allowance for at least the reasons given above in connection with independent base claim 21.

Claim 35

Claim 35 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964) as applied to claim 1 above, and further in view of Altshuler et al. (U.S. Publication 2004/0093042). This rejection is respectfully traversed.

Claim 35 depends from claim 1, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 35 is also allowable for allowance for at least the reasons given above in connection with independent base claim 1.

Claim 36

Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964) as applied to claim 9 above, and further in view of Yamashita et al. (U.S. Patent 3,976,049). This rejection is respectfully traversed.

Claim 36 depends from claim 9, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 36 is also allowable for allowance for at least the reasons given above in connection with independent base claim 9.

Claim 37

Claim 37 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patz et al. (U.S. Patent 5,800,490) in view of Parker et al. (U.S. Patent 5,568,964) as applied to claim 9 above, and further in view of Altshuler et al. (U.S. Publication 2004/0093042). This rejection is respectfully traversed.

Claim 37 depends from claim 9, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 37 is also allowable for allowance for at least the reasons given above in connection with independent base claim 9.

Claim 38

Claim 38 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al. (U.S. Publication 2004/0039428) in view of Pyrozyk et al. (U.S. Patent 5,431,622) as applied to claim 21 above, and further in view of Altshuler et al. (U.S. Publication 2004/0093042). This rejection is respectfully traversed.

Claim 38 depends from claim 21, which was shown above to be allowable. Accordingly, Applicant respectfully submits that claim 38 is also allowable for allowance for at least the reasons given above in connection with independent base claim 21.

ELECTION/RESTRICTION OF CLAIMS 39-47

The Office Action indicates that claims 39-47 are withdrawn from consideration as being directed to a non-elected invention. This conclusion is based on the assumption that claims 39-47 are all focused on an invention with multiple containers, wherein different chemical agents in each container are mixed in response to breaking, so as to provide chemiluminescent light source. It is further based on the assumption that the previous set of claims is focused on a therapeutic lighting device utilizing light emitting diodes as the light source.

Applicant has cancelled claims 39-45 without prejudice to the subject matter contained therein. But Applicant has not cancelled claims 46 and 47.

Instead, Applicant respectfully requests the Examiner to reconsider and examine on the merits claims 46 and 47 for at least the following reasons.

First, claim 46 is an independent claim, and does not depend from claim 39. Independent claim 46 recites a “therapeutic device comprising a member including at least one light source for emitting therapeutic light, a hot/cold gel pack configured in a generally annular shape having a central opening, the central opening sized to frictionally receive the member having the at least one light source so as to form an interference fit therewith.” Notably, claim 46 does not recite multiple containers, wherein different chemical agents in each container are mixed in response to breaking, so as to provide chemiluminescent light source as suggested by the Office Action. For this reason alone, Applicant respectfully requests the Examiner to reconsider and examine on the merits claims 46 and 47.

In addition, the original independent claims 1, 9, 21, 27, and 33 were not focused only on “light emitting diodes as the light source.” Instead, claims 1, 9, 21, and 27 more broadly recited “at least one light source”, and claim 33 broadly recited “means for emitting therapeutic light”. While light emitting diodes are light sources, not all light sources are light emitting diodes. As noted in the specification, LEDs and chemiluminescent light sources are both listed as examples of two of the various types of light sources that can be employed in various embodiments of the invention. Plus, dependent claims 14, 24, and 32 recite that the light source comprises one or more light emitting diodes. The doctrine of claim differentiation further suggests that independent claims 9, 21, and 32 were not focused only on “light emitting diodes as the light source”.

For at least the above reasons, Applicant respectfully requests the Examiner to reconsider and examine on the merits claims 46 and 47.

NEW CLAIMS 48 THROUGH 54

New claims 48 through 54 are supported by the application as originally filed. Accordingly, no new matter is introduced by the addition of claims 48 through 54.

New claims 48 through 52 each depend from an independent base claims, which have been shown above to be allowable. Accordingly, Applicant respectfully submits that claims 48 through 52 are in condition for allowance for at least the reasons given above in connection with the independent claims from which they depend.

In addition, claims 48 through 52 are further patentably distinguishable over the cited references in that the cited references do not disclose, teach or suggest the additional features required by claims 48 through 52:

“wherein the member comprises a relatively thin flexible substrate on which is surface mounted the light source, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, and wherein the method includes activating the switching device to activate the light source to apply therapeutic light to the user’s body” (as recited in claim 48); or

“wherein activating the switch includes squeezing the container while the member is within the pocket such that external pressure is applied to an outer portion of the pocket to activate the switching device (as recited in claim 49); or

“wherein the member comprises a relatively thin flexible substrate on which is surface mounted the light source, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source” (as recited in claim 50); or

“further comprising at least one ribbon cable mounted on the substrate, wherein the light source comprises at least one LED surface mounted to the ribbon cable, and wherein at least a portion

of the conductive lead is surface mounted to the ribbon cable” (as recited in claim 51); or

“further comprising at least one ribbon cable mounted on the substrate, wherein the light source comprises at least one LED surface mounted to the ribbon cable, and wherein at least a portion of the conductive lead is surface mounted to the ribbon cable” (as recited in claim 52).

New claims 53 and 54 are believed to be allowable because the cited references do not disclose, teach or suggest each and every feature required by claims 53 and 54. That is, the cited references do not disclose, teach or suggest:

“A therapeutic device comprising a container having a pocket, at least a portion of the container integrally forming at least a portion of said pocket, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, a relatively thin flexible substrate removably positioned within the pocket, at least one LED surface mounted on the substrate and capable of emitting therapeutic light, at least one power source supported by the substrate, at least one conductive lead surface mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, whereby the container and the substrate have sufficient flexibility for allowing the therapeutic device to be bent in conformance with a contoured portion of a user’s body” (as required by claim 53); or

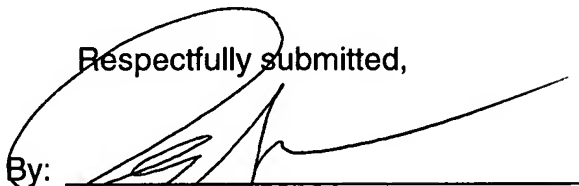
“further comprising at least one ribbon cable mounted on the substrate, wherein the LED is surface mounted to the ribbon cable, and wherein at least a portion of the conductive lead is surface mounted to the ribbon cable”; (as required by claim 54).

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7502.

Applicant believes that the appropriate fees have been included with this filing. If, however, Applicant owes any additional fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. **08-0750**. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. **08-0750**.

Dated: November 8, 2005

Respectfully submitted,

By: _____
Anthony G. Fussner,
Reg. No. 47,582

Harness, Dickey & Pierce, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, Missouri 63105
(314) 726-7500
AGF/dmkd